

BROWN & JONES REPORTING, INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

STERLING D. BROWN,

Plaintiff,

-vs-

CITY OF MILWAUKEE, CITY OF
MILWAUKEE CHIEF OF POLICE
ALFONSO MORALES, in his
official capacity,
SERGEANT SEAN A. MAHNKE,
SERGEANT JEFFREY S.
KRUEGER, OFFICER JOSEPH J.
GRAMS, OFFICER BOJAN
SAMARDZIC, OFFICER JAMES
P. COLLINS, OFFICER
CRISTOBAL MARTINEZ AVILA,
OFFICER ERIK A. ANDRADE,
and OFFICER JASON P.
JENSEN,

Civil Action No. 2:18-cv-922

Defendants.

Video Examination of OFFICER JAMES COLLINS,
taken at the instance of the Plaintiff, under and
pursuant to the Federal Rules of Civil Procedure, before
KARA D. SHAWHAN, a Certified Realtime Reporter,
Registered Merit Reporter and Notary Public in and for
the State of Wisconsin, at City of Milwaukee, Office of
City Attorney, 841 North Broadway, Milwaukee, Wisconsin,
on May 29, 2019, commencing at 1:27 p.m. and concluding
at 4:49 p.m.

A P P E A R A N C E S

GINGRAS, CATES & WACHS, by
MR. MARK L. THOMSEN,
MR. SCOTT THOMPSON,
3228 Turnberry Oak Drive, Suite 210,
Waukesha, Wisconsin 53188,
appeared on behalf of the Plaintiff.

CITY OF MILWAUKEE,
OFFICE OF CITY ATTORNEY, by
MS. NAOMI GEHLING,
841 North Broadway,
Milwaukee, Wisconsin 53202,
appeared on behalf of the Defendants.

A L S O P R E S E N T

Ms. Stephanie Olson, Videographer.

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I N D E X

Examination:	Page
By Mr. Thomsen.....	5
Exhibits Identified:	Page
Exhibit 87 Portions of Officer Samardzic's Deposition.....	23
Exhibit 88 - Milwaukee Police Department Code of Conduct.....	6
Exhibit 89 - Memo of the Policy Review.....	49
Exhibit 90 - Memorandum.....	95
Exhibit 91 - Memorandum From Internal Affairs.....	95
Exhibit 92 - Discipline Review Summary.....	98
Exhibit 93 - Personnel Order.....	99
Exhibit 94 - Personnel Order With a Stamp "Do Not Place on Roll Call Board.".....	100
Exhibit 95 - Transcript of Basic Training.....	105
Exhibit 96 - Historical Summary of Officer Collins' Training Records.....	105

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Disposition Of Original Exhibit/s:
Attached To Original Transcript

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01:38 1 Q What did Officer Grams do to violate Mr. Brown's
01:38 2 rights?

01:38 3 MS. GEHLING: Objection, argumentative
01:38 4 and misstates testimony that has not been given.

01:38 5 BY MR. THOMSEN:

01:38 6 Q Go ahead.

01:38 7 A The basis of stopping him. I don't believe he had
01:38 8 the knowledge that he was actually trying to commit
01:38 9 a crime. The whole aspects of the way the motor
01:38 10 vehicle was parked, him thinking that a possible
01:38 11 armed robbery is going on at Walgreens, the
01:38 12 possible lookout inside the vehicle not sitting in
01:38 13 the driver's seat, parked towards a brick wall, and
01:38 14 as Sterling Brown is walking out the Walgreens, if
01:38 15 he was an armed robbery suspect, he'd do one of two
01:39 16 things: either walk towards the officer and shoot
01:39 17 him, or run the other way. Mr. Brown walked
01:39 18 towards the officer and started talking with him.

01:39 19 Q So Officer Grams pushing Mr. Brown was
01:39 20 unreasonable. Correct?

01:39 21 MS. GEHLING: Objection, speculation --
01:39 22 I'm sorry, argumentative and also assumes testimony
01:39 23 given that wasn't.

01:39 24 THE WITNESS: I was not there, so I don't
01:39 25 know about that.

01:40 1 and assumes testimony not given.

01:40 2 THE WITNESS: I was not Officer Grams, so
01:40 3 I do not know what he was feeling. I cannot place
01:40 4 myself in his shoes. If it was myself, I don't
01:40 5 know.

01:40 6 BY MR. THOMSEN:

01:40 7 Q There was -- Strike that. Would it be fair to say
01:41 8 that you were critical of Officer Grams for his use
01:41 9 of "I own this," this racially loaded language with
01:41 10 Mr. Brown?

01:41 11 MS. GEHLING: Objection, argumentative
01:41 12 and also assumes testimony not given.

01:41 13 THE WITNESS: I don't know what he was
01:41 14 saying as far as, you know, when he said it, I'm
01:41 15 not sure what he was trying to say. So I don't
01:41 16 know.

01:41 17 BY MR. THOMSEN:

01:41 18 Q You would agree that if Officer Grams would have
01:41 19 simply given Mr. Brown a warning or parking ticket,
01:41 20 Mr. Brown should have been allowed to leave with
01:41 21 his date. Correct?

01:41 22 MS. GEHLING: Objection, speculation,
01:41 23 foundation.

01:41 24 THE WITNESS: If that's all he did, yes.

01:41 25 BY MR. THOMSEN:

01:42 1 Q And you would agree that Officer Grams' failure to
01:42 2 properly handle the initial contact with Mr. Brown
01:42 3 resulted in Mr. Brown's ultimately being taken
01:42 4 down, tased, and arrested.

01:42 5 A Yes.

01:42 6 Q And so if I understand your comments at the outset,
01:42 7 Officer Grams' failure to properly handle the
01:42 8 initial contact resulted in Mr. Brown's
01:42 9 constitutional rights being violated.

01:42 10 MS. GEHLING: Objection, argumentative.
01:42 11 Also, I think it mischaracterizes his testimony.

01:42 12 THE WITNESS: Officer Grams' handling of
01:42 13 the investigation resulted in Mr. Brown being
01:42 14 arrested.

01:42 15 BY MR. THOMSEN:

01:42 16 Q But just so I'm very clear in terms of what you'll
01:42 17 be telling the jury, Officer Grams' failure to
01:43 18 conduct the initial contact properly resulted in
01:43 19 Mr. Brown's constitutional rights being violated.
01:43 20 Correct?

01:43 21 MS. GEHLING: Objection, argumentative
01:43 22 and mischaracterizes prior testimony.

01:43 23 THE WITNESS: I would say "no."

01:43 24 BY MR. THOMSEN:

01:43 25 Q So other than your criticisms of Officer Grams as

01:47 1 Q This is a report to then acting Captain of Police
01:47 2 Kurt Leibold. Correct?

01:47 3 A Yes, it is.

01:47 4 Q By Lieutenant of Police Gary Gacek. Correct?

01:47 5 A Yes.

01:48 6 Q Noting, among others, in quotes "Ms. Stoll observed
01:48 7 Officer Collins slam Ms. Light's head down and then
01:48 8 he put all of his weight on top of Ms. Light while
01:48 9 giving her four to five thrusts with his forearm
01:48 10 stating before each thrust 'Don't you kick me, you
01:48 11 fucking bitch.'" Did I read that correctly?

01:48 12 A I'm not sure where you're reading here. Hold on.

01:48 13 Q First page, third full paragraph.

01:49 14 A Yes.

01:49 15 Q Did you, in fact, say that?

01:49 16 A I don't recall. This was so long ago.

01:49 17 Q Second page of Exhibit 77, in quotes, "During
01:49 18 interviews with the Professional Performance
01:49 19 Division, Ms. Stoll opined that Officer Collins is
01:49 20 a cocky officer and a ticking bomb." Did I read
01:49 21 that correctly?

01:49 22 A Yes.

01:49 23 Q In quotes, "Mr. Dickover believed that Officer
01:49 24 Collins' comments were inappropriate and also
01:49 25 opined that Officer Collins did not behave in a

01:49 1 manner consistent with a trained professional and
01:49 2 stated," in quotes, "'If he's going to act like
01:49 3 that right in front of me in a hospital, what's he
01:49 4 going to do on some dark street?'" Did I read that
01:50 5 correctly?

01:50 6 A Yes.

01:50 7 Q Page 3, in quotes, "After reviewing the attached
01:50 8 investigative reports, this office concludes Police
01:50 9 Officer James Collins violated department rules and
01:50 10 procedures as follows: Rule 4, Section 2-455.00
01:50 11 which states in part, 'Members of the police force
01:50 12 are strictly forbidden to argue with prisoners, to
01:50 13 speak to them unnecessarily, to address them in
01:50 14 obscene or profane language, or to threaten them.
01:50 15 Members of the police force guilty of unnecessarily
01:50 16 striking or manhandling a prisoner or mistreating
01:50 17 them in any manner shall be subject to dismissal.'"
01:51 18 Did I read that correctly?

01:51 19 A Yes.

01:51 20 Q This was a discipline for excessive force that was
01:51 21 sustained. Correct?

01:51 22 A Yes.

01:51 23 Q I'm going to show you what's been marked previously
01:51 24 as Exhibit 73. Can you tell the jury what this is?

01:51 25 A It's a request for retraining for myself.

01:51 1 Q Tell me if I read this correctly. "Sir, while
01:52 2 reviewing the use of force history report on
01:52 3 Officer James Collins, it revealed that he has had
01:52 4 11 incidents within the past two years, eight of
01:52 5 them having occurred within the last nine months.
01:52 6 Though the outcome of the incidents vary, the
01:52 7 member's history indicates a pattern of behavior
01:52 8 that suggests a need for retraining in the area of
01:52 9 communication skills. I recommend that Officer
01:52 10 Collins receive additional training in tactical
01:52 11 communication and defense and arrest tactics." Did
01:52 12 I read that correctly?

01:52 13 A Yes.

01:52 14 Q Did you, in fact, undergo additional training in
01:52 15 tactical communication and defense and arrest
01:52 16 tactics?

01:52 17 A Yes.

01:52 18 Q And did you receive additional training after that
01:52 19 earlier incident in 2008?

01:52 20 A I don't recall if I did or not.

01:52 21 Q What type of additional training have you received
01:53 22 in tactical communication and defense and arrest
01:53 23 tactics to help reduce your use of force with
01:53 24 citizens?

01:53 25 A Mostly it's ProComm.

01:53 1 Q And tell me about that.

01:53 2 A Professional communication.

01:53 3 Q And when they talk about professional
01:53 4 communication, what are they teaching you to do?

01:53 5 A Talk and listen to people and try and gain
01:53 6 compliance without physical use, pretty much.

01:53 7 Q So on how many occasions has the department
01:53 8 attempted to get through to you to act
01:53 9 appropriately rather than use excessive force?

01:53 10 MS. GEHLING: Objection, argumentative.

01:53 11 THE WITNESS: I've only had retraining, I
01:54 12 believe, once for this.

01:54 13 BY MR. THOMSEN:

01:54 14 Q And when you say "retraining once for this" --

01:54 15 A For ProComm.

01:54 16 Q And when was that retraining?

01:54 17 A That was for this.

01:54 18 Q And you're referring to Exhibit 73?

01:54 19 A Yes. I believe that was the only time.

01:54 20 Q Didn't you have remedial training after the
01:54 21 incident with Mr. Brown?

01:54 22 A Yes. All of us did. Yes.

01:54 23 Q Wasn't that for professional communications too?

01:54 24 A It was, yes.

01:54 25 Q So tell me, what is it about the professional

01:54 1 communications training that isn't getting through?

01:54 2 MS. GEHLING: Objection, argumentative.

01:54 3 THE WITNESS: It's all getting through.

01:54 4 I was not the initial investigating officer. I had
01:54 5 no verbal contact with Mr. Brown during this
01:54 6 incident except for telling him to get on the
01:54 7 ground when he was fighting with the other
01:55 8 officers.

01:55 9 BY MR. THOMSEN:

01:55 10 Q Mr. Brown was a young African American with a nice
01:55 11 car with his date in the car, and Officer Grams was
01:55 12 actually only going to give him a warning. Right?

01:55 13 MS. GEHLING: Objection, foundation.

01:55 14 THE WITNESS: I have no idea.

01:55 15 MS. GEHLING: You've got to give me a
01:55 16 minute.

01:55 17 BY MR. THOMSEN:

01:55 18 Q And you end up -- What do you mean, you have no
01:55 19 idea?

01:55 20 A I had no idea what Mr. Grams was going to do. He
01:55 21 never told us anything when we first arrived.

01:55 22 Q I thought he told you it was an armed robbery or
01:55 23 something.

01:55 24 A We found out after the fact that's what he was
01:55 25 thinking. We didn't know at the time when he

01:59 1 Q And where did you get the okay that this was
01:59 2 appropriate?

01:59 3 MS. GEHLING: Objection, argumentative.

01:59 4 THE WITNESS: I was not given any okay to
01:59 5 do it. He was kicking at the time. I put my foot
01:59 6 against his leg to prevent him from kicking
01:59 7 anymore. I did not step on his leg. I did not
01:59 8 stomp on his leg.

01:59 9 BY MR. THOMSEN:

02:00 10 Q At the remedial training, the officers that ran
02:00 11 that training specifically pointed out to you that
02:00 12 it was inappropriate for you to be standing on
02:00 13 Mr. Brown's leg. Correct?

02:00 14 MS. GEHLING: Objection, argumentative
02:00 15 and also assumes testimony not given in this
02:00 16 deposition.

02:00 17 THE WITNESS: They said it was
02:00 18 inappropriate, yes. They did not say I was
02:00 19 standing -- I don't believe they used the
02:00 20 terminology "standing," but I was informed that I
02:00 21 was blocking. I was not standing on his leg.

02:00 22 BY MR. THOMSEN:

02:00 23 Q They told you specifically it was inappropriate.

02:00 24 A Yes.

02:00 25 Q It was an unreasonable use of force. Correct?

02:00 1 MS. GEHLING: Objection, argumentative.

02:00 2 THE WITNESS: Yes.

02:00 3 BY MR. THOMSEN:

02:00 4 Q That constitutes a violation of Mr. Brown's
02:00 5 constitutional rights. Correct?

02:00 6 MS. GEHLING: Objection, argumentative.
02:00 7 Also foundation.

02:00 8 THE WITNESS: I don't know.

02:00 9 BY MR. THOMSEN:

02:00 10 Q Officer, you've been trained you cannot use
02:01 11 excessive force. Correct?

02:01 12 MS. GEHLING: Objection, argumentative.

02:01 13 THE WITNESS: True.

02:01 14 BY MR. THOMSEN:

02:01 15 Q And you've been trained that the force used must be
02:01 16 reasonable. Correct?

02:01 17 A Yes.

02:01 18 Q And you've just told me under oath that your
02:01 19 standing on Mr. Brown's leg was not reasonable.
02:01 20 Correct?

02:01 21 A I was not standing on his leg.

02:01 22 Q Your -- whatever you want to say.

02:01 23 A I was blocking --

02:01 24 Q Your --

02:01 25 A I was blocking his foot with my foot.

02:01 1 Q And it was not reasonable use of force. Correct?

02:01 2 MS. GEHLING: Objection, argumentative.

02:01 3 THE WITNESS: That's what I was told,
02:01 4 yes.

02:01 5 BY MR. THOMSEN:

02:01 6 Q I want to know, do you believe it?

02:01 7 A I don't believe it, no.

02:01 8 Q Okay. You were told it was unreasonable use of
02:01 9 force. Correct?

02:01 10 A Yes.

02:01 11 Q But you don't believe that.

02:01 12 A No.

02:01 13 Q So after two ProComm remedial trainings talking
02:01 14 about excessive force, being told that putting your
02:02 15 foot on Mr. Brown's leg was unreasonable use of
02:02 16 force, you still are sitting here telling the jury
02:02 17 that wasn't a violation of his constitutional
02:02 18 rights?

02:02 19 MS. GEHLING: Objection, argumentative.

02:02 20 THE WITNESS: I don't believe so, no.

02:02 21 BY MR. THOMSEN:

02:02 22 Q So tell me, why do you think these trainers are
02:02 23 telling you this is unreasonable use of force?

02:02 24 MS. GEHLING: Objection, foundation,
02:02 25 calls for speculation.

02:04 1 THE WITNESS: I did not stand on his leg.

02:04 2 I was blocking his leg with my foot.

02:04 3 BY MR. THOMSEN:

02:04 4 Q Do you recall at the remedial training that the
02:04 5 officers pointed out that Officer Grams' use of "I
02:04 6 own this" was language with racist overtones?

02:04 7 MS. GEHLING: Objection, argumentative.

02:04 8 THE WITNESS: Yes.

02:04 9 BY MR. THOMSEN:

02:04 10 Q So looking at Exhibit 87 --

02:04 11 A Which one is 87?

02:05 12 Q Again, that's your partner's -- Officer Samardzic's
02:05 13 deposition -- or part of his deposition transcript.

02:05 14 At Page 41, Line 12, I asked Officer Samardzic --

02:05 15 A Wait. Wait. Hold on.

02:05 16 Q Are you there?

02:05 17 A Yes.

02:05 18 Q In quotes, "For example, when Mr. Grams says, 'I
02:05 19 own this,' they pointed out that was inappropriate.

02:05 20 Correct?" "Answer: Yes." "And they specifically
02:05 21 pointed out the racist overtones of the statement.

02:05 22 Correct?" "Answer: Yes." You agree with Officer
02:05 23 Samardzic?

02:05 24 A Yes.

02:05 25 Q Recognizing that Officer Grams approached Mr. Brown

02:10 1 specifically point out to you and others that
02:10 2 Officer Grams' first contact with Mr. Brown,
02:10 3 pushing Mr. Brown, was an unreasonable use of
02:11 4 force?

02:11 5 MS. GEHLING: Objection, argumentative
02:11 6 and foundation.

02:11 7 THE WITNESS: I don't recall.

02:11 8 BY MR. THOMSEN:

02:11 9 Q At Page 37, Officer Andrade noted that Detective
02:11 10 Metz was talking. Question at Line 4. "So
02:11 11 Detective Metz said it was wrong for Mr. -- I mean
02:11 12 for Officer Grams to touch Mr. Brown?" "Answer:
02:11 13 Yes, sir." Do you recall that?

02:11 14 A I do recall that, yes.

02:11 15 Q And do you agree that that contact by Officer Grams
02:12 16 was, in fact, wrong?

02:12 17 MS. GEHLING: Objection, argumentative,
02:12 18 also foundation. I would say the time during the
02:12 19 incident, if I was in Officer Grams' shoes, I don't
02:12 20 know what I would have done.

02:12 21 BY MR. THOMSEN:

02:12 22 Q You don't think you would have just given him a
02:12 23 warning and let him go home with his date?

02:12 24 MS. GEHLING: Objection, argumentative.

02:12 25 THE WITNESS: Like I said, I don't know

02:13 1 THE WITNESS: There were citizen vehicles
02:13 2 in the parking lot, yes.

02:13 3 BY MR. THOMSEN:

02:13 4 Q Can you tell me how many?

02:13 5 A No. I don't recall.

02:13 6 Q Page 40 of Exhibit 80, Line 21. "Question" --
02:13 7 Starting at 19. Excuse me. "So it was Detective
02:13 8 -- you said, Metz. Right?" "Answer: Yes, sir."
02:13 9 "-- made it very clear that if Officer Grams would
02:13 10 have acted appropriately consistent with the
02:14 11 training, he would have just given Mr. Brown the
02:14 12 warning, and you wouldn't be here today. Correct?"
02:14 13 "Answer: Yes, sir. We talked about -- Yes, sir."
02:14 14 You recall that at the remedial training?

02:14 15 A Yes.

02:14 16 Q And so the remedial training was focused in on the
02:14 17 fact that if Officer Grams would have conducted
02:14 18 himself consistent with his training, Mr. Brown
02:14 19 would not have been subject to arrest or use of
02:14 20 force. Correct?

02:14 21 A Yes.

02:14 22 Q At Page 41 and Page 42, I asked Mr. Andrade,
02:14 23 "Question: You have received extensive training on
02:15 24 people's constitutional rights. Correct?" Answer
02:15 25 on the top of Page 42, "Answer: Yes, sir." And

02:15 1 Officer Collins, you've received extensive training
02:15 2 on people's constitutional rights. Correct?

02:15 3 A Yes.

02:15 4 Q I asked Officer Andrade, "Based on the training
02:15 5 that you received, you would agree with me that
02:15 6 because he wasn't allowed to leave, his
02:15 7 constitutional rights were violated. Correct?"
02:15 8 "Answer: Yes." Did I read that correctly?

02:15 9 A Yes, you did.

02:15 10 Q Do you agree based on the training that you
02:15 11 received that because Mr. Brown was not allowed to
02:15 12 leave, his constitutional rights were violated?

02:15 13 MS. GEHLING: Objection, argumentative.

02:15 14 THE WITNESS: Knowing that it was just a
02:15 15 parking citation, yes.

02:15 16 BY MR. THOMSEN:

02:15 17 Q Same page, 42, Line 22. "Question: So there was a
02:16 18 full discussion that there was no articulation of
02:16 19 any reasonable suspicion. Correct?" "Answer:
02:16 20 Yes, sir." "And Detective Metz went through that
02:16 21 and pointed that out. Correct?" "Answer: Yes,
02:16 22 sir." Do you recall that?

02:16 23 A I don't recall that, no.

02:16 24 Q Well, there was a discussion about targets with
02:16 25 bullet holes in the back seat. Do you recall that?

02:16 1 A Yes.

02:16 2 Q And it was pointed out at the remedial training
02:16 3 that the fact that a citizen has targets with
02:16 4 bullet holes does not constitute reasonable
02:16 5 suspicion of a crime. Correct?

02:16 6 MS. GEHLING: Objection, argumentative.

02:16 7 THE WITNESS: Yes.

02:16 8 BY MR. THOMSEN:

02:16 9 Q And at the remedial training, it was pointed out
02:17 10 that Sergeant Mahnke's and Sergeant Krueger's
02:17 11 failure to deescalate the situation resulted in
02:17 12 Mr. Brown's being arrested and tased. Correct?

02:17 13 MS. GEHLING: Objection, argumentative.

02:17 14 THE WITNESS: Yes.

02:17 15 BY MR. THOMSEN:

02:17 16 Q Now, a minute ago or not -- Earlier -- It wasn't
02:17 17 quite a minute -- you said that when you got there,
02:17 18 nobody was telling you anything, including the
02:17 19 sergeants. Correct?

02:17 20 A Correct.

02:17 21 Q And but for Sergeant Mahnke's and Sergeant
02:17 22 Krueger's escalation of this situation, you would
02:17 23 never even have gone hands-on with Mr. Brown.
02:17 24 Correct?

02:17 25 A Correct.

02:17 1 MS. GEHLING: Object --

02:17 2 BY MR. THOMSEN:

02:18 3 Q At Page 43, Line 12, I'd asked Officer Andrade, in
02:18 4 quotes, "And in this case, Detective Metz was very
02:18 5 clear that there was no justification for Officer
02:18 6 Grams to be hands-on with Mr. Brown. Correct?"
02:18 7 "Answer: Yes, sir." Would you agree with that
02:18 8 too, sir?

02:18 9 A Like I said before, as far as him pushing
02:18 10 Mr. Brown, I was not Officer Grams. I'm not sure
02:18 11 what he was feeling. I'm not sure what his comfort
02:18 12 zone is, so I don't really know. If you ask
02:18 13 somebody to step back and they don't step back, you
02:18 14 have to gain some room.

02:19 15 Q Page 32, Officer Andrade, at Line 6, he said, "I
02:19 16 mean, I'm a cop, and I wouldn't want all these cops
02:19 17 just surrounding me. And use of force, James
02:19 18 Collins standing on Mr. Brown's leg, I mean, those
02:19 19 are his money-maker. You know, that's not a
02:19 20 trained technique." Why do you believe that
02:20 21 Officer Andrade says that you were standing on
02:20 22 Mr. Brown's money-maker but you disagree with that?

02:20 23 MS. GEHLING: Objection, calls for
02:20 24 speculation.

02:20 25 THE WITNESS: Because --

02:20 1 MS. GEHLING: Also argumentative.

02:20 2 THE WITNESS: Because I know what I was
02:20 3 doing. I was not standing on his leg. As far as
02:20 4 the comment of "money-maker," I'm not sure where
02:20 5 he's coming with that.

02:20 6 BY MR. THOMSEN:

02:20 7 Q At Page 50, Line 13, "Question: What other pauses
02:20 8 do you recall going through the video?" "Answer:
02:20 9 I believe when Collins stood on his leg." Do you
02:20 10 recall at the remedial training that they stopped
02:20 11 it at that scene?

02:20 12 A I believe so, yes.

02:21 13 Q Did -- Were they critical of Officer Grams for
02:21 14 standing on Mr. Brown's leg as well?

02:21 15 MS. GEHLING: Objection, mischaracterizes
02:21 16 testimony and also argumentative.

02:21 17 THE WITNESS: I don't recall if Officer
02:21 18 Grams was doing anything with his legs. I don't
02:21 19 know. And I was not standing on his leg.

02:21 20 BY MR. THOMSEN:

02:22 21 Q You know, I had asked some questions about the code
02:22 22 of conduct. Right?

02:22 23 A Yes, you did.

02:22 24 Q And I had asked whether the officers' behavior
02:22 25 would inspire and sustain confidence in the

02:22 1 community. Right?

02:22 2 A Yes.

02:22 3 Q We've just gone through several items that were
02:22 4 specifically identified as unreasonable uses of
02:22 5 force. Correct?

02:22 6 A Yes.

02:22 7 Q Certainly that doesn't inspire or sustain
02:22 8 confidence in our community. Does it?

02:22 9 A No.

02:22 10 Q So in retrospect, you spoke -- or you misspoke
02:22 11 earlier. Correct?

02:22 12 MS. GEHLING: Objection, argumentative.

02:22 13 THE WITNESS: As far as how?

02:22 14 BY MR. THOMSEN:

02:23 15 Q The conduct of the officers as it relates to
02:23 16 Mr. Brown did not inspire or sustain confidence in
02:23 17 the community. Correct?

02:23 18 MS. GEHLING: Objection, asked and
02:23 19 answered, argumentative.

02:23 20 THE WITNESS: I don't know.

02:23 21 BY MR. THOMSEN:

02:23 22 Q You searched Mr. Brown after the arrest. Correct?

02:23 23 A Yes.

02:24 24 Q And did you find anything illegal on Mr. Brown?

02:24 25 A No.

02:24 1 Q Would you agree that Mr. Brown did not commit a
02:24 2 crime?

02:24 3 MS. GEHLING: Objection, vague, also
02:24 4 argumentative.

02:24 5 THE WITNESS: I believe he did commit a
02:24 6 crime of resisting police.

02:24 7 BY MR. THOMSEN:

02:24 8 Q And tell me, how do you get to that conclusion?

02:24 9 MS. GEHLING: Objection, argumentative.

02:24 10 THE WITNESS: He was asked several times
02:24 11 to take his hands out of his pockets. He refused.
02:24 12 Then he starts slowly pulling his hands out of his
02:24 13 pockets. I could visibly see something black and
02:24 14 shiny in his left hand. At that time Sergeant
02:25 15 Krueger, Sergeant Mahnke and other officers grabbed
02:25 16 his arms, trying to pull them out of his pockets to
02:25 17 secure them in handcuffs. He physically resisted.
02:25 18 He was pulling away at the officers, dragging them
02:25 19 around the parking lot a little bit. That's why I
02:25 20 intervened. I grabbed Mr. Brown by his head,
02:25 21 pulled it inwards, told him to get on the ground
02:25 22 several times. He refused. I gave him one,
02:25 23 possibly two knee strikes into the sternum, when we
02:25 24 finally got him on the ground where he continued to
02:25 25 resist.

02:30 1 you should be in handcuffs.'" "I wanted to try
02:30 2 what -- to what?" "Sergeant Krueger: You should
02:30 3 be in handcuffs right now, but I have some
02:30 4 patience." You were there. Right?

02:30 5 A Yes.

02:30 6 MS. GEHLING: Objection.

02:30 7 BY MR. THOMSEN:

02:31 8 Q You knew it was for a parking ticket. When a
02:31 9 sergeant starts talking about someone to be in
02:31 10 handcuffs for a parking ticket, don't you have an
02:31 11 obligation to protect Mr. Brown from Sergeant
02:31 12 Krueger, sir?

02:31 13 MS. GEHLING: Objection, argumentative.
02:31 14 Also, foundation, and again, assumes the veracity
02:31 15 of this transcript which has been unconfirmed.

02:31 16 THE WITNESS: I don't recall the parking
02:31 17 citation thing coming up until after the fact. I
02:31 18 don't recall that.

02:31 19 BY MR. THOMSEN:

02:31 20 Q Do you agree that Mr. Brown as a citizen had the
02:31 21 right to simply get a ticket and not be threatened
02:31 22 with handcuffing?

02:31 23 MS. GEHLING: Objection, argumentative.

02:31 24 THE WITNESS: Yes.

02:31 25 BY MR. THOMSEN:

02:32 1 Q I'm going to show you what has been previously
02:32 2 marked as Exhibit 78. Let's go off the record for
02:32 3 a minute and let you take a chance to read that.

02:32 4 THE VIDEOGRAPHER: We are off the record
02:32 5 at 2:32 p.m.

02:32 6 (A break was taken.)

02:43 7 THE VIDEOGRAPHER: We are back on the
02:46 8 record at 2:46 p.m.

02:46 9 BY MR. THOMSEN:

02:46 10 Q Officer Collins, you had a chance to review
02:46 11 Exhibit 78 while we were off the record?

02:46 12 A Yes.

02:46 13 Q Have you seen any of these documents before?

02:46 14 A No.

02:46 15 Q Okay. There is a reference at the -- I believe
02:47 16 it's the fourth page in the exhibit there is a memo
02:47 17 from Captain Felician. Did I pronounce that right?

02:47 18 A Yes.

02:47 19 Q -- to Captain Riestra that you were given a policy
02:47 20 review. Do you recall that?

02:47 21 A Yes.

02:47 22 Q The -- Who gave you the policy review?

02:47 23 A I believe it was Lieutenant Karas and Sergeant
02:47 24 Whiten, I believe, was in the office.

02:47 25 Q I'm going to show you what's been marked as

02:47 1 Exhibit 89.

02:47 2 (Exhibit No. 89 was marked.)

02:47 3 BY MR. THOMSEN:

02:48 4 Q Whoops. Excuse me. There you go. Exhibit 89.

02:48 5 This is actually the memo of the policy review?

02:48 6 A Yes.

02:48 7 Q There's a reference that Sergeant Joshua -- Is it
02:48 8 Whiten or Whitten?

02:48 9 A Whiten.

02:48 10 Q Whiten was also there?

02:48 11 A Yes.

02:48 12 Q Do you recall how long this policy review took?

02:48 13 A I have no idea.

02:48 14 Q What do you recall being discussed during this
02:48 15 policy review?

02:48 16 A I don't recall.

02:48 17 Q Looking at Exhibit -- I believe it's 88, the code
02:49 18 of conduct in front of you there, when there's a
02:49 19 reference to Core Value 1.0, competence, and
02:49 20 referencing Guiding Principle 1.02, and I quote,
02:49 21 "We cooperate with our colleagues, other agencies
02:49 22 and citizens to ensure public safety, improve the
02:49 23 quality of urban life, protect those who cannot
02:49 24 protect themselves, and enforce the law." Did I
02:49 25 read that correctly?

02:49 1 A Yes.

02:49 2 Q So did the policy review focus in on your failure
02:49 3 to protect Mr. Brown?

02:49 4 MS. GEHLING: Objection, argumentative.

02:49 5 THE WITNESS: I don't recall what it
02:49 6 entailed.

02:49 7 BY MR. THOMSEN:

02:49 8 Q What did you understand the purpose of the policy
02:50 9 review was?

02:50 10 A I barely even remember having a policy review. I
02:50 11 don't remember the total concept of a policy
02:50 12 review.

02:50 13 Q Going back to Exhibit 78?

02:50 14 A Which one is that?

02:50 15 Q There's a reference to the June 11 remedial
02:50 16 training. Correct?

02:50 17 A Yes.

02:50 18 Q And we talked about that a little bit. Right?

02:50 19 A Yes.

02:50 20 Q Okay. The -- Where do you recall it being held?

02:50 21 A At the safety academy.

02:51 22 Q Do you recall what room?

02:51 23 A No. I don't remember the room number.

02:51 24 Q Who do you recall being present?

02:51 25 A Myself, PO Avila, Andrade, Samardzic, Grams,

02:51 1 Sergeant Krueger, Sergeant Mahnke, Lieutenant
02:51 2 Stein, Detective Metz, and initially Captain
02:51 3 Ramirez and Lieutenant Metzler were there. And
02:51 4 then shortly after that, they were asked to leave.

02:51 5 Q Who asked them to leave?

02:51 6 A All of us did. We did not feel comfortable
02:51 7 speaking our mind in front of the command staff.

02:51 8 Q Why?

02:51 9 A Because this department does not have our back.

02:52 10 Q And when you say, "This department doesn't have our
02:52 11 back," what do you mean by that?

02:52 12 A Whatever we say openly, if command staff is
02:52 13 present, they will make sure that other people --
02:52 14 upper command staff will hear about it, and then we
02:52 15 will be punished for what we make -- what we say if
02:52 16 we speak openly or not.

02:52 17 Q And why do you believe that?

02:52 18 A I've been a cop in this department for 23 years.
02:52 19 I've seen it every year. And it's just gotten
02:52 20 worse. Not just for any specific reason. Just --
02:52 21 This command staff does not have our back.

02:52 22 Q It seems like the command staff had your back in
02:52 23 this instance. Nobody but Andrade got fired.

02:53 24 MS. GEHLING: Objection, argumentative.

02:53 25 THE WITNESS: The way this internal

02:53 1 investigation began was out of norm for this
02:53 2 department.

02:53 3 BY MR. THOMSEN:

02:53 4 Q Why do you say that?

02:53 5 A Most internal investigations, criminal or non,
02:53 6 don't start before -- you know, does not start
02:53 7 within 24 hours after someone's been in custody or
02:53 8 after an incident. After Sterling Brown was
02:53 9 arrested, handcuffed, the paperwork was all done --
02:53 10 I'm not sure what time Officer Grams was done. I
02:53 11 get back to work the next night at 7:00 in the
02:53 12 evening, and I already have to go up to internal
02:53 13 affairs for a PI-21 regarding Sterling Brown's
02:53 14 incident. That does not happen this fast on this
02:54 15 department.

02:54 16 And all of us were given subpoenas -- not
02:54 17 subpoenas, but PI-21s that same night. There have
02:54 18 been very big cases within this department years
02:54 19 back that officers -- internal affairs were
02:54 20 involved right from the beginning, and
02:54 21 investigations didn't start this quick.

02:54 22 Q And so why do you say that they didn't have your
02:54 23 back when -- Officer Andrade was the only one
02:54 24 fired. Correct?

02:54 25 A Yes.

02:54 1 Q It sounds like people had your back.

02:54 2 A No. Not the way I look at it, no.

02:54 3 Q I mean, you didn't get any days off. Did you?

02:54 4 MS. GEHLING: Objection, argumentative.

02:54 5 THE WITNESS: Yes, I did.

02:54 6 BY MR. THOMSEN:

02:54 7 Q How many days off?

02:55 8 A I had two days off.

02:55 9 Q And you had two days off for what reason?

02:55 10 A For my comments on a body camera about Mr. Brown's
02:55 11 action -- not actions, but his behavior.

02:55 12 Q Okay. That came later than that initial incident,
02:55 13 though, right?

02:55 14 A Yes.

02:55 15 Q Okay. We'll come back to that other one. But
02:55 16 initially you weren't given any time off for your
02:55 17 use of force. Correct?

02:55 18 A No.

02:55 19 Q So how do you account for the fact that you didn't
02:55 20 get any time off for your use of force even though
02:55 21 you had remedial training that pointed out that it
02:55 22 was unreasonable force for you to have your foot on
02:56 23 Mr. Brown's leg?

02:56 24 MS. GEHLING: Objection, vague, also
02:56 25 argumentative.

02:56 1 THE WITNESS: The instructors at the
02:56 2 academy haven't seen the street in who knows how
02:56 3 many years. They teach textbook classroom DAT
02:56 4 instruction. I would say 99 percent of the time on
02:56 5 the street DAT is not applied textbook classroom
02:56 6 style. So what was used on the street as far as my
02:56 7 blocking Mr. Brown's foot with my foot, not
02:56 8 standing on it, blocking it, may not be textbook.
02:56 9 It's a dynamic application.

02:56 10 BY MR. THOMSEN:

02:56 11 Q So who taught you about utilizing this dynamic
02:56 12 application?

02:56 13 A Nobody.

02:57 14 Q So where did you get this terminology "dynamic
02:57 15 application"?

02:57 16 A I would say 90 percent -- 99 percent of our
02:57 17 applications of DAT are dynamic.

02:57 18 Q So it sounds like what you're saying is what -- The
02:57 19 force you use on the street is not -- Well, strike
02:57 20 that. If I'm hearing you correctly, how you act
02:57 21 and respond on the street is not the same as how
02:57 22 you would act at a training session.

02:57 23 MS. GEHLING: Objection, vague.

02:57 24 THE WITNESS: Training is training. It's
02:57 25 not actually having a very combative person on the

02:57 1 street. A person is just standing there, and
02:57 2 you're trained how to do a textbook maneuver of
02:57 3 taking somebody down. You're not going full force
02:57 4 on somebody. You're going slow speeds if you're
02:58 5 doing any speeds. You practice handcuffing on
02:58 6 somebody that's not being resistive. It's all
02:58 7 classroom stuff so nobody gets hurt. On the
02:58 8 street, a lot of the times people are actually
02:58 9 physically fighting us, and the textbook thing
02:58 10 doesn't happen because it's not classroom.

02:58 11 BY MR. THOMSEN:

02:58 12 Q And it sounds like command staff for your whole
02:58 13 time on the street -- and it sounds like it's been
02:58 14 23 years. Right?

02:58 15 A Yes.

02:58 16 Q Okay. Almost a quarter century. You have been
02:58 17 given two ProComm. Right? What you call -- two
02:58 18 professional communications --

02:58 19 A Yes.

02:58 20 Q -- training. Right?

02:58 21 A I believe so, yes.

02:59 22 Q No one has said, "Take a week off for using
02:59 23 excessive force." Correct?

02:59 24 A No.

02:59 25 Q Are you aware of anybody that's been disciplined

02:59 1 for using excessive force?

02:59 2 A Yes.

02:59 3 Q Who?

02:59 4 A Officer Joe Schabel. He was ultimately fired --

02:59 5 No. I'm sorry. He resigned, and he went to prison

02:59 6 for 33 months. Officer -- I can't remember his

02:59 7 first name -- Spengler.

02:59 8 MS. GEHLING: Andrew.

02:59 9 THE WITNESS: Andrew Spengler. He went

02:59 10 to jail for 15 years. Bartlett -- Officer

02:59 11 Bartlett. He went to jail for 20 years. And there

02:59 12 was a couple other people involved in that same

02:59 13 case. I don't remember their names.

02:59 14 BY MR. THOMSEN:

02:59 15 Q That was a single incident?

03:00 16 A Yes.

03:00 17 Q But other than that single incident where there

03:00 18 were individuals that have gone to prison, it

03:00 19 sounds like you're unaware of anybody being

03:00 20 disciplined for use of excessive force.

03:00 21 A To my recollection, I don't believe -- Well, I

03:00 22 assume there probably has been. I don't remember

03:00 23 their names, so I can't really say "yes" or "no,"

03:00 24 but I assume in my 23 years, yes. I just don't

03:00 25 remember names.

03:00 1 Q But you don't recall a specific instance.

03:00 2 A No.

03:00 3 Q Okay. How about anybody disciplined for race-based
03:00 4 conduct?

03:00 5 MS. GEHLING: Objection, vague as to what
03:00 6 "race-based conduct" is.

03:00 7 THE WITNESS: To my knowledge, no.

03:00 8 BY MR. THOMSEN:

03:00 9 Q So let's go back to the remedial training. At what
03:01 10 point in time were command staff asked to leave?

03:01 11 A Before we started anything.

03:01 12 Q And who asked them to leave?

03:01 13 A I believe it was Lieutenant Stein. He said that --
03:01 14 During the beginning I believe he mentioned
03:01 15 something like, "During the training we would like
03:01 16 everyone to be open, talk about it amongst
03:01 17 ourselves," and all of us -- sergeants and officers
03:01 18 all included -- made it very clear that we were
03:01 19 very uneasy to do so with Captain Ramirez and
03:01 20 Lieutenant Metzler in the same room. And I believe
03:01 21 it was Lieutenant Stein asked them to step out.

03:02 22 Q Okay. And after they stepped out, they proceeded
03:02 23 to run the video?

03:02 24 A Shortly thereafter, yes.

03:02 25 Q Was there a PowerPoint too?

03:05 1 MS. GEHLING: Objection, compound.

03:05 2 THE WITNESS: I don't -- Well, first I
03:05 3 don't remember if it was stopped at both those
03:05 4 times or if it was stopped at one time.

03:05 5 BY MR. THOMSEN:

03:05 6 Q Okay.

03:05 7 A If it was, I don't remember which time it was
03:05 8 stopped.

03:05 9 Q Fair enough. What do you recall being pointed out?

03:05 10 A I know the biggest thing that was pointed out was
03:05 11 the comment that Officer Grams made stating that he
03:05 12 owns this.

03:05 13 Q And what was the point being made?

03:05 14 A That what he made -- The statement that he made --
03:06 15 Well, it was the statement he made, and then
03:06 16 Sterling Brown's remark saying, "You don't own me."
03:06 17 And it was made -- not made, but there was --
03:06 18 Remarks were made by the instructor that that
03:06 19 statement could be construed as a racial thing
03:06 20 going back to the slavery days.

03:06 21 Q Do you agree with that?

03:06 22 A That the comment was wrong?

03:06 23 Q Yeah.

03:06 24 A Yes.

03:06 25 Q Okay. Did Officer Grams respond in agreement?

03:22 1 back of the head, told him to get on the ground
03:22 2 several times, he refused to comply, and I gave him
03:22 3 one, possibly two knee strikes, and then after that
03:22 4 we were able to get him on the ground. And then
03:22 5 they asked me if I was the person that
03:22 6 decentralized him, and I said, "Well, we were all
03:22 7 pretty much involved in decentralization of him. I
03:22 8 did a use of force to get him on the ground.
03:23 9 Whether or not it was my knee strikes that got --
03:23 10 did the actual decentralization to get him on the
03:23 11 ground or if it was all of our body weight on him
03:23 12 or if he just gave up, I didn't know. I could not
03:23 13 say that I was the one that actually did the actual
03:23 14 decentralization."

03:23 15 Q Why do you think Sergeant Mahnke and Sergeant
03:23 16 Krueger were asking you this when they were present
03:23 17 for the whole thing?

03:23 18 MS. GEHLING: Objection, foundation.
03:23 19 Calls for speculation.

03:23 20 THE WITNESS: Because they would --
03:23 21 Sergeant Mahnke was doing the use of force
03:23 22 investigation, which he shouldn't have.

03:23 23 BY MR. THOMSEN:

03:23 24 Q So explain that to me.

03:23 25 A Anybody that's directly involved in the use of

03:50 1 Do you recall saying that?

03:50 2 A Yes.

03:50 3 Q So first you're laughing about Mr. Brown and the
03:50 4 use of force, and now you're calling him a
03:50 5 douchebag?

03:50 6 A I was not laughing about the use of force.

03:50 7 Q So why are you calling Mr. Brown a douchebag?

03:51 8 MS. GEHLING: Objection, argumentative.

03:51 9 THE WITNESS: Because he was acting like
03:51 10 a fool.

03:51 11 BY MR. THOMSEN:

03:51 12 Q Tell me. How is that?

03:51 13 A During the entire encounter, what I observed and
03:51 14 heard, every time he was asked to do something, he
03:51 15 would bring up, "Well, why do I have to do that?"
03:51 16 If you asked a question, instead of answering the
03:51 17 question, he would ask another question instead of
03:51 18 answering the question he was given.

03:51 19 Q Sir, I thought you trained in constitutional
03:51 20 rights. Right?

03:51 21 A Yes.

03:51 22 Q A citizen has a right to ask officers questions.
03:51 23 Right?

03:51 24 A Yes, they do.

03:51 25 Q Okay. And they can ask questions all day long.

03:51 1 Right?

03:51 2 A Yes.

03:51 3 Q Actually, they could be yelling and screaming at
03:51 4 you and calling you names and swearing. Correct?

03:51 5 A Yes.

03:52 6 Q So what is it about Mr. Brown that made you call
03:52 7 him a douchebag, sir?

03:52 8 MS. GEHLING: Objection, argumentative.

03:52 9 THE WITNESS: It's nothing about
03:52 10 Mr. Brown. I use that term for a lot of people.
03:52 11 It's one of my favorite words. I didn't use the
03:52 12 term towards Mr. Brown whatsoever. I never used it
03:52 13 once in his presence.

03:52 14 BY MR. THOMSEN:

03:52 15 Q Sergeant Hines notes in quotes, "Officer Collins
03:52 16 stated to Sergeants Krueger and Sean Mahnke, "The
03:52 17 bureau's coming out? The bureau coming?" Why were
03:52 18 you asking that -- those questions?

03:52 19 A Because the bureau should be coming or somebody
03:53 20 should be coming to investigate our use of force
03:53 21 instead of the two sergeants since there wasn't --
03:53 22 this isn't -- Since there was not a lieutenant in
03:53 23 the lieutenant's chair that night, only a sergeant,
03:53 24 that sergeant cannot come out and investigate
03:53 25 another sergeant's use of force. It has to be

03:53 1 somebody higher. And typically that lieutenant
03:53 2 would come from the bureau.

03:53 3 Q So Sergeant Krueger stated, "We're trying to
03:53 4 protect ourselves." Did he say that to you?

03:53 5 A I believe he said something like that, yes.

03:53 6 Q In your PI-21 did you report to the officers that
03:53 7 Sergeant Krueger had told you that you were trying
03:53 8 to protect yourselves?

03:53 9 A I don't recall if I said that or not, but we're not
03:53 10 trying to cover up anything. We're just trying to
03:53 11 get the use of force investigation done. If they
03:54 12 ask questions, I answer questions.

03:54 13 Q Sergeant Krueger stated, "We're trying to protect
03:54 14 ourselves." Officer Collins stated, "Okay. The
03:54 15 Bucks player?" Sergeant Mahnke stated, in quotes,
03:54 16 "Yeah. Because he plays for the Bucks, he makes a
03:54 17 complaint, it's going to be a fucking media
03:54 18 firestorm...and then any little fucking thing that
03:54 19 goes wrong is going to be like 'Aww, the Milwaukee
03:54 20 Police Department is all racist, blah, blah,
03:54 21 blah...and plain as day there's a fucking target in
03:54 22 the car, and he wouldn't take his hands out of his
03:54 23 pocket." Did I read that correctly?

03:54 24 A Yes.

03:54 25 Q Do you remember having that conversation?

04:03 1 It was a high-profile person. We just arrested
04:03 2 him. We knew it was going to make the media. We
04:03 3 knew it was going to make a big media frenzy. If
04:03 4 it was just a normal person on the street, none of
04:03 5 this would have gone even into the news, but
04:03 6 because it was a Milwaukee Bucks player or a
04:03 7 professional player -- a professional athlete or
04:03 8 anything like that, a high-profile person, it makes
04:03 9 the news no matter where it happens -- no matter if
04:03 10 it's in the city of Milwaukee, Waukesha, a
04:03 11 different state, a different city, wherever.
04:03 12 High-profile people make the news. It makes the
04:03 13 media.

04:03 14 BY MR. THOMSEN:

04:03 15 Q And so if it had been any other young African
04:03 16 American --

04:03 17 A Any person. Not African American. What --
04:03 18 Anybody.

04:03 19 Q You're telling me that an 80-year-old woman coming
04:03 20 out of there on this incident would have been tased
04:03 21 and thrown to the ground?

04:03 22 MS. GEHLING: Objection, argumentative,
04:04 23 also mischaracterizes his testimony that he just
04:04 24 gave.

04:04 25 BY MR. THOMSEN:

04:10 1 Exhibit 90. Can you tell me what that is?

04:10 2 A It's regarding charges of core value, integrity,
04:10 3 referencing Guiding Principle, respect, referencing
04:10 4 guidelines. It's a -- charges.

04:10 5 Q This is from you to the chief. Right?

04:10 6 A I didn't fully read it yet, so I don't know. Yes.

04:10 7 Q And this is a follow-up to the charges that were
04:10 8 referenced in Exhibit 66. Correct?

04:10 9 A I believe so.

04:11 10 Q You conclude your memo by saying, in quotes, "I do
04:11 11 not believe that I have failed the community under
04:11 12 either core value." Do you still believe that?

04:11 13 A Yes.

04:11 14 Q So you believe your conduct at all times reflects
04:11 15 the standard of what officers believe is
04:11 16 appropriate code of conduct?

04:11 17 A Yes.

04:11 18 MS. GEHLING: Objection, vague.

04:12 19 (Exhibit No. 91 was marked.)

04:12 20 BY MR. THOMSEN:

04:12 21 Q I'm going to show you what's been marked as
04:12 22 Exhibit 91. Tell me, what is Exhibit 91?

04:13 23 A It's a memo I got from -- It's a memo I got from
04:13 24 internal affairs saying that one of the charges
04:13 25 were rescinded from my complaint.

04:13 1 Q Did they tell you why?

04:13 2 A I don't remember if they told me why, but more than
04:13 3 likely because it was baseless, I guess. I don't
04:13 4 know.

04:13 5 Q Why was it baseless?

04:13 6 A I didn't do the investigation. I have no idea.
04:13 7 This is from internal affairs.

04:14 8 Q So did you believe the charges were baseless?

04:14 9 A Do I believe the charges were baseless? Yes.

04:14 10 Q Why?

04:14 11 A Because I believe that anything said in the
04:14 12 confines of a squad car, whether a camera is on or
04:14 13 not, should be privileged information, shouldn't be
04:14 14 made public to -- should not be made public.
04:14 15 That's what we were told during body camera
04:14 16 training. I was not having any direct contact with
04:14 17 Mr. Brown when I made those comments. I was making
04:14 18 remarks to other people. I was never making any
04:14 19 comments to him directly.

04:15 20 Q Clearly they were comments you believed. Right?

04:15 21 MS. GEHLING: Objection, argumentative.

04:15 22 THE WITNESS: At the time, yes.

04:15 23 BY MR. THOMSEN:

04:15 24 Q Have you changed your mind?

04:15 25 A I don't know Sterling Brown. I don't know him

04:15 1 personally. I have no idea.

04:15 2 Q So why did you say he was a douchebag?

04:15 3 A At the time of his conduct, yes, he was being a
04:15 4 douchebag.

04:15 5 Q Because he had the audacity to ask you a question?

04:15 6 A He was -- I wasn't -- He was not asking me
04:15 7 questions.

04:15 8 Q He was asking your sergeant questions.

04:15 9 A You just said "asking me." He did not ask me any
04:15 10 questions.

04:15 11 Q Well, fair enough. So he had the audacity to ask
04:15 12 your sergeant questions about why he was being
04:15 13 treated the way he was instead of just getting a
04:15 14 ticket. Right?

04:15 15 MS. GEHLING: Objection, argumentative,
04:15 16 also foundation.

04:15 17 THE WITNESS: If he would have answered
04:15 18 the questions he was given instead of asking
04:15 19 questions on top of the questions that he was given
04:16 20 instead of answering the questions, being a little
04:16 21 more compliant with his answers, maybe he wouldn't
04:16 22 have been a douchebag.

04:16 23 BY MR. THOMSEN:

04:16 24 Q You know, maybe if you would have recognized his
04:16 25 constitutional rights and treated him like a human

04:16 1 being, you wouldn't be sitting here.

04:16 2 MS. GEHLING: Objection, argumentative.

04:16 3 Is there a question?

04:16 4 BY MR. THOMSEN:

04:16 5 Q Right?

04:16 6 A Maybe.

04:16 7 Q Yeah. Who had the job that night to protect
04:16 8 citizens' rights? You or Mr. Brown?

04:16 9 A I don't believe at the time his rights were being
04:16 10 violated.

04:16 11 Q Well, we know today you believe his constitutional
04:16 12 rights were being violated in part. Right?

04:16 13 A At the time I didn't believe his rights were being
04:16 14 violated.

04:16 15 (Exhibit No. 92 was marked.)

04:17 16 BY MR. THOMSEN:

04:17 17 Q I'm going to show you what's been marked as
04:17 18 Exhibit 92. What is this?

04:17 19 A Discipline review summary.

04:17 20 Q Have you ever seen this document?

04:17 21 A No.

04:17 22 Q At the bottom it reads, in quotes, "Member received
04:17 23 two-day suspension without pay for violating Core
04:17 24 Value 3.00-Integrity, Guiding Principle 3.01-
04:17 25 Behavior that discredits the department. Member

04:17 1 submitted a response to charges. Member believed
04:18 2 his statements were private and an exception to BWC
04:18 3 recording. Member admits his use of slang to
04:18 4 describe the citizen's actions were inappropriate."
04:18 5 Is that true?

04:18 6 A Yeah.

04:18 7 Q Do you admit your use of slang was inappropriate?

04:18 8 MS. GEHLING: Objection, argumentative.

04:18 9 THE WITNESS: Yes.

04:18 10 BY MR. THOMSEN:

04:18 11 Q Do you have any knowledge as to what Captains
04:18 12 Riestra or Ramirez may have said about your past
04:18 13 work performance and character?

04:18 14 A No.

04:18 15 (Exhibit No. 93 was marked.)

04:18 16 BY MR. THOMSEN:

04:19 17 Q Now I'll show you what's been marked as Exhibit 93.
04:19 18 Have you seen Exhibit 93 before?

04:19 19 A No.

04:19 20 Q You never received a copy of the personnel order?

04:19 21 A Oh, I have, actually. I'm sorry. Yes.

04:19 22 (Exhibit No. 94 was marked.)

04:19 23 BY MR. THOMSEN:

04:19 24 Q Now I'm going to show you what's been marked as
04:19 25 Exhibit 94. It is a copy of the first page of

04:19 1 Exhibit 93 but it says, "Do not place on roll call
04:20 2 board." Is that correct?

04:20 3 A Yes, it does.

04:20 4 Q So why wasn't it on the roll call board?

04:20 5 MS. GEHLING: Objection, foundation.

04:20 6 THE WITNESS: I have no idea. I'm not
04:20 7 the one who makes that determination.

04:20 8 BY MR. THOMSEN:

04:20 9 Q Are disciplines normally put on the roll call
04:20 10 board?

04:20 11 A Typically, yes.

04:20 12 Q So what is your understanding in terms of why there
04:20 13 was an exception to your discipline not being put
04:20 14 on the roll call board?

04:20 15 MS. GEHLING: Objection, foundation.

04:20 16 THE WITNESS: I have no idea. Like I
04:20 17 said, I do not make the determination. I didn't
04:20 18 know if it was from the chief, the captain. I have
04:20 19 no idea.

04:20 20 BY MR. THOMSEN:

04:21 21 Q When it's not put on the roll call board, other
04:21 22 officers then do not know about the discipline.
04:21 23 Correct?

04:21 24 MS. GEHLING: Objection, foundation.

04:21 25 THE WITNESS: That is true. And also,

04:21 1 names aren't put on the roll call board with the
04:21 2 disciplinary action. They just say, "Officer was
04:21 3 found guilty or whatever and is given suspension
04:21 4 days, remedial or whatever." It doesn't give names
04:21 5 with the suspension days on the roll call board
04:21 6 anymore. That stopped a long time ago.

04:21 7 BY MR. THOMSEN:

04:21 8 Q So not only didn't they mention that there was an
04:21 9 officer given two days off for that, no one ever
04:21 10 knew that any officer got two days off for
04:21 11 violating Core Value 3.0 for your involvement --

04:21 12 A Not --

04:21 13 Q -- in this incident. Correct?

04:21 14 MS. GEHLING: Objection, argumentative,
04:21 15 it calls for speculation, foundation.

04:21 16 THE WITNESS: Not through roll call, no.

04:21 17 BY MR. THOMSEN:

04:22 18 Q And what -- You're implying something there.

04:22 19 A It was not disseminated through roll call. No, it
04:22 20 was not.

04:22 21 Q Was it disseminated somewhere else?

04:22 22 MS. GEHLING: Objection, foundation,
04:22 23 calls for speculation.

04:22 24 THE WITNESS: On our lineup at work, when
04:22 25 it shows people working and so forth and off, it

04:22 1 will say if somebody is suspended on that roll call
04:22 2 board -- on the lineup. And for those two days
04:22 3 that I was off, it indicated I was suspended.

04:22 4 BY MR. THOMSEN:

04:22 5 Q Did you have any discussions with anyone in terms
04:22 6 of why you were suspended?

04:22 7 A I probably told somebody that I was suspended
04:22 8 because of Sterling Brown -- because I called him a
04:22 9 douchebag.

04:23 10 Q So why do you think you got two days off for
04:23 11 calling Mr. Brown a douchebag but you didn't get
04:23 12 any time off for actually having your foot on his
04:23 13 leg?

04:23 14 MS. GEHLING: Objection, foundation,
04:23 15 calls for speculation.

04:23 16 THE WITNESS: My foot was blocking his
04:23 17 foot. It was not on his foot. You keep implying
04:23 18 that I was stepping on it. I was not stepping on
04:23 19 his foot. I was not stepping on his leg. And
04:23 20 probably because the department found that I did
04:23 21 nothing wrong.

04:23 22 BY MR. THOMSEN:

04:23 23 Q Well, at the remedial training, they pointed out
04:23 24 that having your foot on his leg was wrong.
04:23 25 Correct?